

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
DIVISION**

Cheryl Jauch,

Plaintiff,

v.

Menard, Inc., et al.,

Defendants.

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Case No.: _____

Judge _____

Magistrate Judge _____

NOTICE OF REMOVAL

Notice is hereby given that Defendant Menard, Inc. (“Menard”), removes this civil action filed in the Court of Common Pleas, Montgomery County, Ohio, at Case No. 2022 CV 02879, to the United States District Court for the Southern District of Ohio, Western Division, under 28 U.S.C. § 1332 and 28 U.S.C. § 1441, and state the following grounds for removal:

1. Plaintiff Cheryl Jauch (“Plaintiff”) instituted a civil action against Menard and John Doe Individuals 1–5 by filing a Complaint in the Court of Common Pleas, Montgomery County, Ohio, at Case No. 2022 CV 02879, on June 29, 2022. (*See* Exhibit A, “Complaint”).
2. The Complaint was served on Menard via Certified Mail on July 1, 2022. (*See* Exhibit B, “Service to Menard, Inc.”).
3. Menard filed its Answer to Plaintiffs’ Complaint on July 25, 2022. (*See* Exhibit C, “Answer”).
4. Upon information and belief, Plaintiff is a citizen of the State of Ohio. (*See* Ex. A, ¶ 7)
5. Menard is incorporated in the State of Wisconsin and conducts its principal place of business in Eau Claire, Wisconsin. (*See* Ex. A, ¶ 8).

6. John Doe Individual(s) 1–5 are fictitious entities whose citizenship is disregarded for the purposes of determining diversity. *Smith v. Dolgen Midwest, LLC*, No. 2:19-cv-4333, 2020 U.S. Dist. LEXIS 189707, n. 1 (S.D. Ohio Oct. 13, 2020) (citing *Alexander v. Elec. Data Sys. Corp.*, 13 F.3d 940, 948 (6th Cir. 1994)).
7. To the extent that Plaintiff can amend her Complaint to name John Doe Individual(s) 1–5, and these parties are found to be residents of Ohio, these parties should not be joined as the amendment would be purely to divest the Court of its jurisdiction and Plaintiff would not be substantially prejudiced by the exclusion. 28 U.S.C. § 1447(e); *Comer v. Schmitt*, No. 2:15-cv-2599, 2015 U.S. Dist. LEXIS 139895, *13 (S.D. Ohio Oct. 14, 2015).
8. Defendant certifies that, to the best of its knowledge, information, and belief, the amount in controversy exceeds Seventy-Five Thousand Dollars, exclusive of interest and costs.
9. Plaintiff demands judgment in excess of \$25,000 as well as punitive damages and attorney’s fees for injuries, of both body and mind, that she alleges have been disabling and may be permanent. (*See* Ex. A, ¶ 17).
10. When asked by counsel for Defendant, Plaintiff’s counsel could not say that Plaintiff would seek less than \$75,000. (*See* Exhibit D, “Correspondence from Defendant’s Counsel”).
11. This Court therefore has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) and (c) because there is diversity of citizenship between Plaintiff and Menard, Inc., and the total amount claimed by Plaintiff exceeds the jurisdictional minimum of \$75,000.
12. This Notice of Removal is timely pursuant to 28 U.S.C. ¶ 1446(b). (*See* Ex. B).
13. A copy of this Notice of Removal is being served upon all parties and is being filed with the Court of Common Pleas of Montgomery County, Ohio.

WHEREFORE, the civil action filed in the Court of Common Pleas, Montgomery County, Ohio, at Case No. 2022 CV 02879, is hereby removed to the United States District Court, Southern District of Ohio, Western Division.

Respectfully submitted,

/s/ Patrick Kasson

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Counsel for Defendant Menard, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was filed using the Clerk's electronic filing system on this 29th day of July 2022, which constitutes service, and via electronic mail delivery, on the following:

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/s/ Patrick Kasson

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